

CHAPTER III DEFINITIONS

§3.1 – PURPOSE, AND APPLICABILITY

§3.2 – GENERAL RULES FOR CONSTRUCTION OF LANGUAGE

§3.3 – NUMBERED DEFINITIONS

§3.4 – ALPHABETIC DEFINITIONS

§3.5 – RESERVED

§3.1 –PURPOSE AND APPLICABILITY

The purpose of this chapter is to promote consistency in the interpretation of this Ordinance.

§3.2 – GENERAL RULES FOR CONSTRUCTION OF LANGUAGE

The following general rules of construction shall apply to the textual provisions of this Ordinance.

- A. The word “County” means the areas of jurisdiction under Benton County, Arkansas.
- B. **Headings.** Section and subsection headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any provision of this Ordinance.

Illustration. The text of this ordinance shall control in cases where the text differs in meaning or implication from any chart, graph, illustration, or table.
- C. **Shall and May.** “Shall” is always mandatory and not discretionary. “May” or “Should” is discretionary.
- D. **Tenses and Numbers.** Words used in the present tense include the future, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. **Conjunctions.** Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
 - 1. “And” indicates that all connected items or provisions apply.
 - 2. “Or” indicates that the connected items or provisions may apply single or in any Combination.
 - 3. “Either...or” indicates that the connected items or provisions shall apply single but not in combination.
- F. All public officials, bodies, and agencies to which reference is made are those of Benton County unless otherwise indicated.

Key to Symbols: ♦ Floodplain, ☔ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

- G. The words “building” and “structure” are synonymous and include any part thereof.
- H. The words “parcel” and “tract” may be used interchangeably.
- I. The word “Person” shall include individuals, firms, corporations, associations and any other similar entities.
- J. The word “permitted” or words “permitted by right” means permitted without meeting the requirements for a conditional use permit or site plan.
- K. All yards required by this ordinance shall be open and unobstructed by structures from the lowest level of the lot to the sky, except as specifically regulated herein.

§3.3 – NUMBERED DEFINITIONS

44 CFR (Emergency Management and Assistance; National Flood Insurance Program Regulations) – This refers to Parts 59-75 which contain Federal regulations upon which local floodplain managements are based ♦

44 CFR §65.12 – This refers to the section of the Federal regulations which involves revision of flood insurance rate maps to reflect base flood elevations caused by proposed encroachments ♦

100-YEAR FLOOD – Refers to any flood with a 1% chance of occurring in any given year. The term is misleading, because of its statistical derivation. A “100-year flood” may occur many times in any given 100-year period, or it may not occur at all in 100 years ♦

§3.4 – “A” Definitions

For the purpose of this Ordinance, certain terms and words are to be used and interpreted as defined hereinafter. Where any words are not defined, the standard dictionary definition shall apply. In addition, some definitions listed restrict and define the meaning and intent of permitted uses set forth in this Ordinance.

A ZONES – Special flood hazard areas without detailed studies, where base flood elevations have not been determined ♦

ABUTTING – Having a common boundary. Parcels having no common boundary other than a common corner shall not be considered abutting.

ACCESS – The way or means by which a piece of property is approached or entered. Also referred to as ingress-egress point.

ACCESS PERMIT – A permit issued by the Road Department allowing property owner to establish an Access driveway on a County Street or Road.

Key to Symbols: ♦ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

ACCESSORY STRUCTURES – Structures which are on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure (such as garages and storage sheds).

ACCESSORY USE – The use of land or a building or a portion thereof customarily incidental, subordinate to the principal use of the land or building, and located on the same lot as the principal use.

ADDITION – Any construction that increases the size of the building such as a attached garage or a new room or wing.

ADJACENT – See Adjoining Land

ADJOINING LAND – A tract, lot, or parcel that shares all or part of a common line with another tract, lot, or parcel (See Abutting).

AE ZONES – Special flood hazard areas where detailed studies have determined base flood elevations ♦

AGENT – An individual or entity empowered to act for or to represent another such as an attorney, engineer, architect, real estate agent, or similar. For example, an applicant for a development permit may be the agent of the owner of the property.

AGRICULTURAL BUILDING – A structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated, or packaged, nor shall it be a place used by the public.

AGRICULTURAL LAND USE – Shall include land used for farming; ranching; algaculture meaning the farming of algae; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; and the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production. Agricultural land uses shall not include commercial or industrial scale processing or manufacturing facilities, livestock or other agricultural auction facilities, fairs or shows where livestock or agricultural products are displayed or judged, or any other activity clearly commercial in scale, scope, or use.

AGRITOURISM ACTIVITY – In accordance with A.C.A §2.11.103, an interactive or passive activity carried out with or without payment to an agritourism activity operator on a farm, ranch, or agribusiness operation related to agriculture, food production, historic traditions, or nature watching conducted by an agritourism activity operator for the education, entertainment, or recreation of participants. An agritourism activity includes without limitation:

- (i) A farming or ranching activity;

Key to Symbols: ♦ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

- (ii) The viewing of historic, cultural, or natural attractions;
- (iii) A harvest-your-own activity;
- (iv) Nature watching; and
- (v) An activity involving an animal exhibition at an agricultural fair.

Agritourism activity does not include:

- i. A road side fruit and vegetable stand; or
- ii. An operation exclusively devoted to the sale of merchandise or food at retail.

AGRITOURISM ACTIVITY OPERATOR- Means an individual or entity that provides the facilities and equipment necessary to participate in an agritourism activity.

AGRICULTURE-RELATED BUSINESS – An establishment engaged in the retail sale of supplies directly related to the day-to-day activities of agricultural production, including the bulk storage of hay, feed, seed, fertilizers, and related agrichemicals.

AH ZONES – Special flood hazard areas characterized by shallow flooding with ponding effects (where floodwaters accumulate in depressions and linger until absorbed or evaporated) ◆

AO ZONES – Special flood hazard areas characterized by shallow flooding with sheet flow (where floodwaters flow in a broad, shallow sheet rather than through a narrow channel) ◆

ALLEY – A passage or way affording generally a secondary means of vehicular access to abutting properties, and not intended for general traffic circulation.

ALTERATIONS – Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders the consummated act of which may be referred to herein as “altered” or “reconstructed.”

ALLUVIAL FAN FLOODING – Flooding occurring on the surface of an alluvial fan or similar landform that originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport and deposition; and unpredictable flow paths ◆

ANIMAL, FARM – Any animal that customarily is raised in an agricultural, rather than urban, environment, for profit on farms and has the potential of causing a nuisance if not properly maintained, including, but not limited to chickens, pigs, sheep, goats, horses, cattle, llamas, emus, ostriches, donkeys and mules.

ANIMAL CLINIC – An establishment for the diagnosis and treatment of pets and other animals including but not limited to dogs, cats, birds and horses. All boarding of animals takes place in an enclosed structure and is incidental to clinic or hospital use.

Key to Symbols: ◆ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ◆ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

ANIMAL SHELTER OR KENNEL – A public or private facility including outside runs for enclosure of animals, especially stray or unlicensed pets, or for pets being boarded for short periods of time, where more than five (5) animals, more than four (4) months of age are kept.

ANTENNA – An exterior apparatus designed for transmitting or receiving television, AM/FM radio, digital microwave, cellular, telephone, or similar forms of electronic communication ■

ANTENNA ARRAY – One (1) or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include an omnidirectional antenna (rod), a directional antenna (panel) and /or a parabolic antenna (disc). The antenna array does not include the Support Structure, as defined herein ■

ANTENNA, DIRECTIONAL – An antenna or array of antennas, including panels, microwave dishes and satellite dishes, designed to concentrate a radio signal in a particular direction ■

ANTENNA, OMNI-DIRECTIONAL – An antenna that transmits signals in 360 degrees such as a whip antenna ■

ANTENNA, SATELLITE DISH – A dish-shaped antenna used to receive signals transmitted from satellites. Large satellite dish antennas are those where the maximum diameter is greater than 36 inches. Small satellite dish antennas are those where the maximum diameter of the dish is 36 inches or less in diameter ■

APEX – A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur ◆

APPLICANT – The person or persons making an application to the County for approval of any type of review subject of this Ordinance. The applicant may be the property owner; a representative or agent of the owner such as an engineer, architect, attorney, or planner; or other party with an interest in the property such as a leaseholder. Any person who is not the owner must obtain the owner's consent in writing to make an application for a specific property or properties.

AREA OF SHALLOW FLOODING – A designated AO or AH zone on the county's flood insurance rate map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, and where the path of flooding is unpredictable. Such flooding is characterized by ponding and sheet flow ◆

AREA OF SPECIAL FLOOD HAZARD – The land in a floodplain within the county subject to a one percent or greater chance of flooding in any given year. The area may be designated as zone A on the flood insurance rate map (FIRM). After detailed studies have been completed, zone A usually is refined into zones AE, AH, or AO ◆

ARCHITECT – A registered professional architect as required by Arkansas State Law.

Key to Symbols: ◆ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ◆ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

ARTERIAL ROAD - A street or road of considerable continuity which serves or is intended to serve as a principal traffic way between separate areas, districts, communities or densely developed areas; and is the main means of access to the primary street system or expressway.

AUCTION HOUSE – A building, area or areas within a building used for the public sale of goods, ware, merchandise, or equipment to the highest bidder. This definition excludes an “auto auction” or “livestock market” which are separately defined.

AUTO OR EQUIPMENT AUCTION – A facility for the sale of automobiles and large construction or farm equipment to the highest bidder.

AUTOMOBILE REPAIR – Any building, structure or improvements to land used for the repair and maintenance of automobiles, motorcycles, trucks, buses or similar vehicles including but not limited to body, fender, muffler, or upholstery work, oil change and lubrication, painting, tire services and sales.

AUTOMATIC ENTRY AND EXIT OF FLOODWATERS – The water must be able to enter and exit with no intervening action from a person ♦

“B” Definitions

BFE – The acronym for Base Flood Elevation ♦

BASE FLOOD – The flood having a one (1) percent chance of being equaled or exceeded in any given year. (100-year flood) ♦

BASE FLOOD ELEVATION – The expected height of floodwaters during the peak of the base flood event ♦

BASEMENT – The space between two floor levels, with the lowest level located more than 1.2 meters below grade.

BLADES – The aerodynamic surface that catches the wind ▲

BLOCK – A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, transportation rights-of-way, shorelines of waterways, or boundary lines of municipal jurisdictions.

BOND – Any form of surety bond in an amount and form satisfactory to the Planning Board. All bonds shall be approved and be acceptable as to form and content by the Planning Board whenever a bond is required by these regulations.

BUFFER – Buffer area shall include but will not be limited to planted vegetation, natural vegetation, berm, or manufactured barrier such as a wall or screening fence with concealing properties to a height of minimum six feet.

Key to Symbols: ♦ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

BUILDING – Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

BUILDING LINES – A line or lines designating the land area beyond which a structure is not permitted. (Also known as a Set Back Line).

BUOYANCY – The upward force exerted by water. Buoyancy can cause underground tanks to float free and can lift structures off foundations ♦

“C” Definitions

CERTIFICATE OF ROAD MAINTENANCE ACCEPTANCE – A county instrument to record acceptance of maintenance responsibility for roads in previously dedicated and accepted rights-of-way.

CFR – The acronym for the Code of Federal Regulations that is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation. The Federal regulations pertaining to the national Flood Insurance Program are found in title 44, Emergency Management and Assistance ♦

CO – An abbreviation for “Certificate of Occupancy”. This certificate is issued by the County and is required before anyone can occupy and live within a building. It is issued only after the County has made all inspections and all monies and fees have been paid.

CO-LOCATION – The placement of many different antenna arrays on the same support structure. Each antenna array may have a separate and distinct owner ■

COLLECTOR ROAD: A street which, in addition to serving abutting properties, intercepts minor streets, connects with community facilities and carries neighborhood traffic to major arterial street systems.

COMMERCIAL – Pertaining to any business, trade, industry, or other activity engaged in for profit ☂

COMMON OWNERSHIP – Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockbroker, partner, or associate, or a member of their family owns an interest in each corporation, entity, or unincorporated association.

COMPATIBILITY – A condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly impacted negatively directly or indirectly by another use or condition.

CONSTRUCTION SITE – Any location where construction activity occurs ☂

CONTIGUOUS – Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot.

Key to Symbols: ♦ Floodplain, ☂ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

CONTRACTOR – Any person or firm performing or managing construction work at a construction site, including any construction manager, general contractor or subcontractor. Also includes, but is not limited to, earthwork, paving, building, plumbing, mechanical, electrical or landscaping contractors, and material suppliers delivering materials to the site.

COUNTY – Benton County, Arkansas.

COUNTY PLAN – Any of the plans authorized by Act 422 of 1977 which have been recommended by the Benton County Planning Board, adopted by the Benton County Quorum Court and filed in the office of the Ex-officio Recorder and Circuit Clerk, Benton County Courthouse. It includes but is not limited to the County Road Plan and the Land Use Guide.

CRAWLSPACE – A type of structural foundation where the space beneath the lowest floor is typically not deep enough to allow a person to stand and not all four walls are below grade.

CRITICAL FEATURE – An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system may be compromised ♦

CRITICAL FACILITIES – Include: Governmental facilities that are considered essential for the delivery of critical services and crisis management (such as data and communication centers and key governmental complexes); facilities that are essential for the health and welfare of the whole population (such as hospitals, prisons, police and fire stations, emergency operations centers, evacuation shelters and schools); mass transportation facilities (such as airports, bus terminals, train terminals); lifeline utility systems (including potable water, wastewater, oil, natural gas, electric power and communications systems); high potential loss facilities (such as nuclear power plants or military installations); hazardous material facilities (such as industrial facilities housing or manufacturing or disposing of corrosives, explosives, flammable materials, radioactive materials and toxins) ♦

CUL-DE-SAC – A minor street having one end open to traffic and the other end terminated by a vehicular turn-around within the platted area.

“D” Definitions

D ZONES – Areas in which the flood hazard has not been determined, but may be possible ♦

DE MINIMIS – De minimis is a Latin expression meaning about minimal things, normally in the locutions *de minimis non curat lex* ("The law does not concern itself with trifles). In risk assessment, it refers to a level of risk that is too small to cause concern. Some refer to this as a "virtually safe" level. For the purpose of this Ordinance, de minimis shall be defined as not exceeding one (1) percent.

DETENTION BASIN – An area or facility where excess stormwater is stored or held temporarily and then slowly drains when water levels in the receiving channel recede. In essence, the water in a detention basin is temporarily detained until additional room becomes available in the receiving channel (see RETENTION BASIN below).

Key to Symbols: ♦ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

DEVELOPER – A person, firm, or corporation engaged in the development of land, and in the dividing, subdividing, or re-subdividing of land into lots or parcels for the purpose or conveyance with the scope and application for these regulations.

DEVELOPMENT OF LAND – Includes but is not limited to providing access to lots and parcels, extending, or providing utilities except for agricultural purposes, subdividing land into lots and blocks, resulting in the need for access and public utilities service.

DEVELOPMENT – Broadly, any manmade change in improved or unimproved real estate. It includes, but is not limited to, construction, reconstruction, or placement of a building, or any addition or substantial improvement to a building. “Development” also includes the installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than 180 consecutive days. The installation of utilities, construction of roads, bridges, culverts or similar projects are also “developments.” Construction or erection of levees, dams, walls, or fences; drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface are “developments.” Storage of materials including the placement of gas and liquid storage tanks are “developments,” as are channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters. “Development” does not include maintenance of existing buildings and facilities, maintenance of existing drainage ditches, resurfacing of roads, gardening, plowing, routine farming, or similar practices that do not involve filling, grading, or construction of levees ♦

DEVELOPMENT PERMIT – Refers to the permit required for placing a “development” in the Floodplain ♦

DOMESTIC SEWAGE – Sewage originating primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers and sinks.

DRIVEWAYS: A travelway installed and maintained by others and not part of the County road system.

They are intended to provide access to and from a residence, lot, parcel of land, apartment complex or other private development to a private or public road as approved by the County Planning Board.

DRIVEWAY APRON – The area between the sidewalk and the curb. When there is no sidewalk, the apron shall extend a minimum of 6 feet from the back of the curb or edge of pavement towards the property.

DWELLING – The building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

DWELLING UNIT – A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

“E” Definitions

EARTHWORK – The disturbance of soils on a site associated with clearing, grading, or excavation activities.

Key to Symbols: ♦ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

EASEMENT – A formal contract that allows a party to use another party’s property for a specific purpose. E.g., a utility easement might allow one party to run utility line through a neighbor’s property.

ELEVATED BUILDING – A non-basement building:

1. Built, in zones AE, A, AO, AH, X and D, to have the top of the bottom floor elevated above the ground level by means of pilings, columns (posts and piers) or shear walls parallel to the flow of the water; and
2. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of one foot above the base flood. For zones AE, A, AO, AH, X and D, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

ELEVATION CERTIFICATE – This refers to FEMA form 81-31, which for the purposes of this article must be properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas ♦

EMERGENCY GENERATOR – An engine that converts mechanical energy into electrical energy during times of electrical power outages or failure. Emergency generators are not regulated by this ordinance ▲

ENGINEER – A registered professional engineer as required by Arkansas State Law.

ENVIRONMENTAL PROTECTION AGENCY (EPA) – The United States (U.S.) Environmental Protection Agency, the regional office thereof, any federal department, agency, or commission that may succeed to the authority of the EPA, and any duly authorized official of the EPA or such successor agency.

EXISTING CONSTRUCTION – For the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures ♦

EXISTING STRUCTURES – A structure erected prior to the date of adoption of the appropriate code, or one for which approvals has been obtained from the Planning Board.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION – A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads, is completed before the effective date of the floodplain management regulations adopted by the County ♦

EXISTING STRUCTURE (for floodplain management purposes) – A structure which is in place before any reconstruction, rehabilitation, addition, or other improvement takes place ♦

Key to Symbols: ♦ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads. Federal Emergency Management Agency, or FEMA, is the Federal agency responsible for administering the National Flood Insurance Program ♦

“F” Definitions

FARM BUILDINGS AND STRUCTURES – Buildings and structures located on a working farm parcel, as evident by farming income and use, but that are not suitable for human occupancy.

FEMA – The acronym for the U.S. Federal Emergency Management Agency ♦

FILL – The placement of natural sand, dirt, soil, rock, concrete, cement, brick, or similar material at a specified location to bring the ground surface up to a desired elevation.

FIRE LANE – A road or other passageway developed to allow the passage of fire apparatus. A fire lane is not necessarily intended for vehicular traffic other than fire apparatus.

FIRM – The acronym for Flood Insurance Rate Map ♦

FLOOD OR FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source ♦

FLOOD FRINGE – The portion of the 100-year floodplain that is outside the floodway ♦

FLOOD INSURANCE RATE MAP (FIRM) – An official map of the county, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the county ♦

FLOOD INSURANCE STUDY – The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary-floodway map ♦

FLOOD PROTECTION SYSTEMS – Those physical structural works, for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within the county subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards ♦

Key to Symbols: ♦ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

FLOODING EVENTS – General or temporary conditions of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or from the unusual and rapid accumulation or runoff of surface waters from any source ♦

FLOODPLAIN – (1) Any land area susceptible to inundation by floodwaters from any source. For the purposes of these regulations, floodplain specifically refers to the land area susceptible to being inundated by the base flood; (2) The 100 year floodplain defined by the Federal Flood Insurance Administration and all other areas known to be subject to seasonal or flash flooding ♦

FLOODPLAIN ADMINISTRATOR – The county official designated in this article as responsible for the administration of floodplain management regulations ♦

FLOODPLAIN MANAGEMENT – The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations ♦

FLOODPLAIN MANAGEMENT REGULATIONS – Planning or zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, such as a floodplain ordinance, grading ordinance and erosion control ordinance, and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction ♦

FLOODPROOFING – Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents ♦

FLOOD PROOFING CERTIFICATE – FEMA form 81-65, which for the purposes of this article must be properly completed by a Professional Engineer or Architect licensed to practice in the State of Arkansas ♦

FLOODWAY (regulatory floodway) – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height ♦

FLOOR, LOWEST – The lowest floor of the lowest enclosed area (including basement). For a typical slab-on-grade construction, the elevation of the lowest floor is the top of the first floor of the house. For a typical basement foundation construction, the elevation of the lowest floor is the top of the basement floor. For a typical crawlspace foundation construction, the elevation of the lowest floor is the top of the first floor of the house. For typical split-level constructions, the elevation of the lowest floor is the top of the first living area floor – the garage floor is not the lowest floor as long as there are no living areas in the garage and it is used solely for storage, parking vehicles and entry to the house. The elevation of the lowest floor of a manufactured home, however, is the bottom surface of the lowest floor joist.

Key to Symbols: ♦ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

FLOW-THROUGH OPENINGS – Openings specifically designed to allow floodwaters to flow into and out of enclosed spaces, minimizing the danger of foundation or wall collapse from lateral hydrostatic pressure ♦

FOUNDATION – The supporting portion of a structure below the first floor construction, or below grade, including the footings.

FRONTAGE – The side of a lot abutting on a street or road and ordinarily regarded as the front of the lot. On corner lots, the frontage shall be that side on which the primary structure entry is oriented.

FRONTAGE ROAD – A minor street located alongside a major street, giving access to abutting properties while providing connection to the major street at controlled intervals; includes frontage roads and streets but not alleys.

FUNCTIONALLY DEPENDENT USE – A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities. Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure ♦

“G” Definitions

GEOGRAPHIC INFORMATION SYSTEM (GIS) – An integrated collection of computer software and data used to view and manage information about geographic places, analyze spatial relationships, and model spatial processes. A GIS provides a framework for gathering and organizing spatial data and related information so that it can be displayed and analyzed. Benton County uses a Web-based GIS system to manage county maps that include layers for roads, parcels, water features, and a number of other geographic elements.

GRADE – The slope of a road, street, or other public way specified in percentage terms.

GROUNDWATER – Any water residing below the surface of the ground or percolating into or out of the ground. This includes water from an aquifer or subsurface water source.

GROSS FLOOR AREA – The total area of all floors in all buildings on a parcel measured to the exterior walls of the buildings including corridors, hallways, landings, foyers, staircases, stairwells, enclosed balconies and mezzanines, and enclosed porches or verandah, but excluding parking areas, elevators and ventilating shafts, basements and any other spaces less than 1.5 meters in height.

“H” Definitions

HARD SURFACE – Surfaces made from compactible materials such as SB-2, gravel, etc.

Key to Symbols: ♦ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

HAZARDOUS MATERIALS – Material that poses an unreasonable risk to health and safety of personnel (either employees or emergency responders), the public, and/or the environment if not properly controlled during handling, storage, manufacture, processing, packaging, use, disposal, or transportation. Defined by O-90-31, see Muni-Code Chapter 30.

HISTORIC STRUCTURE – Any structure that is:

1. Listed individually in the National Register of Historic Places, a listing maintained by the Department of the Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior;
 - b. Directly by the Secretary of the Interior in states without approved programs.

HOMEOWNERS ASSOCIATION – An association or organization, whether incorporated or not, which operates under and pursuant to covenants or deed restrictions, through which each owner of a portion of a subdivision—be it a lot, parcel site, unit plot, condominium, or any other interest—is automatically a member as a condition of ownership and each such member is subject to a charge or assessment for a pro-rated share of expense of the association which may become a lien against the lot or other member interest. Also referred to as Property Owners Association or POA.

HOUSEHOLD HAZARDOUS WASTE (HHW) – Any material generated in a household (including single and multiple residences) that would be classified as hazardous ☁

HYDRODYNAMIC FORCES – The forces and stresses associated with moving water, including impacts from objects carried in the water 💧

HYDROSTATIC FLOOD FORCES – The forces and stresses associated with standing floodwaters 💧

“I” Definitions

IMPROVEMENTS – Any man-made structure including but not limited to grading and street surfacing, curbs and gutters, sidewalks, crosswalks, culverts, bridges, water lines, storm sewers, sanitary sewers, utilities, and any other feature that may be a part of the development process.

Key to Symbols: 💧 Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol 💧 are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

INDUSTRIAL DEVELOPMENT – see examples listed in Chapter VI, Table 6-4.

IN-HOME OCCUPATION, RURAL – An in-home occupation is defined as any activity carried out for gain by a resident and conducted in the resident’s rural dwelling unit or other residential structure. Specific limitations of an in-home occupation (as opposed to other commercial activity) include the following:

1. The in-home occupation must be carried out indoors without any outdoor storage or equipment except that outdoor storage unless said storage or equipment is outside of a 300-foot setback of any property line buffered in a manner approved by the Planning Department.
2. The appearance of the residential primary or secondary structure shall not be altered for the purpose of the in-home occupation.
3. Any commercial vehicles must be garaged or not situated within 100’ of a property line.
4. Not more than one client, customer, or patron may be permitted on premises at any one time.
5. Deliveries and pickups by tractor-trailers are prohibited.
6. Signage limited to one (1) sign of two (2) sq. ft. in size

INDIVIDUAL SEWAGE DISPOSAL SYSTEM – A system for disposal of sewage by means of a septic tank or mechanical treatment, designed for use apart from a public sewer to serve a single establishment or building.

INDIVIDUAL WATER SUPPLY – A supply other than an approved public water supply that serves one or more families.

“J” Definitions

Reserved

“K” Definitions

KEY BOX – A secure device with a lock operable only by a fire department master key, and containing building entry keys and other keys that may be required for access in an emergency.

“L” Definitions

LAND SURVEYOR – A licensed land surveyor as required by Arkansas State Law.

LANDSCAPED AREA – The portion of a site, including buffers and setbacks, which will be planted with vegetation (i.e., grass or live ground cover, shrubs, trees), or on which existing vegetation will be left undisturbed, under laid by a pervious surface (soil). Used as a measure of the intensity of land use.

LARGE/UTILITY SCALE (LUS) WIND TURBINE – A wind energy conversion system (WECS), consisting of a wind turbine, tower, and the associated control or conversion electronics, which has a rated capacity of more than 100 kW and which is intended to produce electricity for sale to a rate regulated or non-

Key to Symbols: ◆ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ◆ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

regulated utility or use off site. Turbines in this category are typically grouped together to form wind farms or a wind power plant, these groupings may also be referred to as a wind facility ▲

LATERAL FORCES – The horizontal hydrostatic forces associated with standing water. Water exerts an equal force in all directions, and as little as three feet of standing water can generate sufficient lateral force to collapse a foundation or wall ♦

LEVEE – A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water to provide protection from temporary flooding ♦

LEVEE SYSTEM – A flood protection system that consists of a levee and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices ♦

LOCAL ROAD: Minor streets used primarily to provide access to abutting properties.

LOT – Any land intended as a unit for the transfer of ownership or for development (also called parcel and tract).

LOT, BACKING – A lot having a frontage on two streets (double frontage) and the property owner is denied access to one of the streets.

LOT, CORNER – A lot with at least two adjacent sides that abut on a street or streets.

LOT, DOUBLE FRONTAGE – A lot fronting on two non-intersecting streets.

LOT LINE – A line dividing one (1) lot from another, from a street, or from any public place.

LOT LINE ADJUSTMENT – A lot line adjustment indicates small revisions between two (2) parcels to adjust for setbacks, structure encroachments, or adjacent owner agreements.

LOT RECOMBINATION – The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the County as required by this ordinance.

LOT SPLIT – A transfer or contract to transfer a part of any parcel of land where said parcel was shown as part of a platted subdivision being recorded in the office of the Ex-Officio Recorder and Circuit Clerk of Benton County. Each lot created as part of a lot split must meet all of the dimensional requirements of the approved subdivision and of this ordinance.

“M” Definitions

MAJOR MODIFICATION – Concerning telecommunications towers, major modification shall refer to:

Key to Symbols: ♦ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

1. A change from personal use to non-personal or commercial use.
2. A change in support structure type.
3. Any increase in height of more than 24' for towers at 250' or less in height.
4. Any increases in height by more than 10% of tower's original height if over 250'.
5. For guyed towers in excess of 500' in height, 50% of the tower's original width.
6. For monopole towers, replacement of the tower ■

MANUFACTURED HOME – A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a recreational vehicle.

MANUFACTURED HOME PARK OR SUBDIVISION – A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

MANUFACTURED HOME PARK OR SUBDIVISION, NEW – A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including at a minimum the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads, is completed on or after the effective date of floodplain management regulations adopted by the county.

MEAN SEA LEVEL – This refers to, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on the county's flood insurance rate map are referenced ♦

MICRO WIND TURBINE – Shall mean a wind energy conversion system (WECS), consisting of a wind turbine, tower, and the associated control or conversion electronics, which has a rated capacity of 10 kW or less. Examples of items they can be used to power include small appliances in boats and campers, a few lights, or portable communication systems, such as radio equipment. Micro turbines are not subject of these regulations ▲

MIXED USE STRUCTURES – Structures with both a business and a residential component, but where the area used for business is less than 50% of the total floor area of the structure.

MOBILE HOME PARK DEVELOPER – The person, firm or corporation seeking to establish or to expand a Mobile Home Park. The term "Developer" used in this regulation means "Mobile Home Park Developer."

MOBILE HOME DWELLING UNITS – Transportable dwelling units suitable for single-family year round occupancy and containing the same water supply, waste disposal and electrical convenience as immobile housing and shall be inclusive of the definition of "manufactured home" contained in A.C.A. 14-54-1602 (see also MANUFACTURED HOME above)

MOBILE HOME PARK – For the purpose of this regulation, a Mobile Home Park is a parcel of land located outside the corporate limits of cities in Benton County that is originally platted under single ownership or common promotional plan and planned, developed and improved for the commercial purpose of

Key to Symbols: ♦ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

placement of two (2) or more Mobile Homes. Excluded from this definition are single parcels of land upon which are placed three (3) or fewer Mobile Homes for use by members of a family and/or employees of a farm or business. However, all Mobile Homes not located within Mobile Home Parks, as herein defined, shall be in compliance with the water and sanitation requirements of the State Health Department and of Benton County.

MODIFICATION – A specific request for relief from a non-dimensional provision of this Ordinance, specifically a modification would generally be a reduction in scope of a provision.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) – The system of conveyances, including roads, streets, curbs, gutters, ditches, inlets, drains, catch basins, pipes, tunnels, culverts, channels, detention basins and ponds owned and operated by the County and designed or used for collecting or conveying stormwater, and not used for collecting or conveying sanitary sewage ☂

“N” Definitions

NACELLE – Refers to the body of the propeller-type wind turbine ▲

NEW CONSTRUCTION – For floodplain management purposes, structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the county on September 12, 1991, and includes any subsequent improvements to such structures ☂

NO ADVERSE IMPACT PRINCIPLE – A principle of restricting or prohibiting land development that does harm or “adversely affects” someone else’s property or land.

NONCONFORMITY – Nonconformity or nonconforming use is a term used in land use laws to refer to an existing structure or use of a property which is not permitted under the current regulations either as a development or use that is not permitted generally or a development or use that has not received development approval under the existing regulations. A use might become nonconforming through the adoption of new laws, or as the result of court case decisions. Lawfully established nonconforming uses are allowed to continue, but are subject to limitations. They may be “frozen” at the level of operation that existed at the time of implementation of a zone designation that made the use nonconforming.

NONRESIDENTIAL STRUCTURES – Structures used only for commercial or public purposes such as businesses, schools, churches, etc.

NO-RISE CERTIFICATES – Formal certifications signed and stamped by a Professional Engineer licensed to practice in the State of Arkansas, demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that a proposed development will not result in any increase in flood levels within the community during the occurrence of a base flood event ♦

NOTICE OF VIOLATION – (1) A written notice detailing any violations of this [stormwater] program and any action expected of the violators ☂ (2) The formal noticing of any violation of the provisions of this Planning and Development Ordinance.

Key to Symbols: ♦ Floodplain, ☂ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

NPDES – The National Pollutant Discharge Elimination System. ☁

NUISANCE – Conduct within a municipality that unreasonably interferes with the use and enjoyment of lands of another, including conduct on property which disturbs the peaceful, quiet, and undisturbed use and enjoyment of nearby property, constitutes a common nuisance.

“O” Definitions

OFF-SITE NUISANCES – Include dust, smoke, odors, noise, vibration, light, glare, heat, etc. that affects property other than that on which it originates.

OPEN SPACE – Open space shall be defined as an area of land or water that either remains in its natural state or is used for agriculture, recreational, or cultural use, free from intensive development for residential, commercial, industrial or institutional use. Open space can be publicly or privately owned. It includes agricultural and forest land, undeveloped lakeshore or riverbank lands, undeveloped scenic lands, and public parks and preserves. It also includes water bodies themselves such as lakes and bays. In an urban setting, a vacant lot, courtyard, plaza, or a small marsh can be open space. A small park or a narrow corridor for walking or bicycling is open space, though it may be surrounded by developed areas. Cultural and historic resources are part of the heritage of Arkansas and are often protected along with open space.

OVERSPEED CONTROLS – Mechanisms that are used to limit the speed of blade rotation to below the design limits of the WECS. The following systems describe different methods for slowing or stopping a wind turbine in the event of malfunction, for repairs, or any other incident as needed ▲

- a. **Braking:** A method of overspeed control that utilizes a disc brake, which can be applied mechanically, electrically, or hydraulically to stop the rotor in emergencies.
- b. **Feathering:** A method of overspeed control that rotates the blade axis, or rotors, at an angle to maintain the torque at rated wind speeds.
- c. **Furling:** The method of overspeed control by which the blades are turned away from the direction of the wind.

OWNER – The person who legally owns a facility, part of a facility, or land.

“P” Definitions

PARAPET – A wall placed at the edge of a roof to prevent people from falling off.

PARKING, OFF STREET – An enclosed or open area not in the street, designated for vehicles.

PERCOLATION TEST OR PERC TEST – Tests that a soil engineer performs on earth to determine the feasibility of installing a leech field type sewer system on a lot. A test to determine if the soil on a proposed building lot is capable of absorbing the liquid affluent from a septic system.

Key to Symbols: ♦ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

PERFORMANCE BOND – An amount of money that a developer must put on deposit with the County as an insurance policy that guarantees the developer’s property and timely completion of a project or job.

PERSONAL USE – A non-commercial use by a resident of the subject property containing a telecommunications tower or other facility referred to in Chapter 7(B). If any revenues are generated from the operation of the tower, it will not be for personal use as such term is used herein ■

PLAN, EMERGENCY ACCESS – A plan showing how emergency services is provided access and unfettered circulation on the property, location of emergency facilities such as fire hydrants, call boxes, shelters, and other elements as may be applicable.

PLAN, LANDSCAPE – A plan that contains the following elements:

1. Proposed landscape species
2. Proposed hardscape and decorative features
3. Buffers and screening devices
4. Proposal for protecting existing vegetation during and after construction
5. Proposed grade changes
6. Any other information that can be reasonably required for an informed decision to be made by the approving authority.

PLAN, LIGHTING – A plan showing the location, height above grade, type of illumination, type of fixture, the source lumens, and the luminous area for each source of light proposed.

PLANNED UNIT DEVELOPMENT (PUD) – A comprehensively planned land development project in which the standard requirements of Benton County Subdivision Regulations are varied to permit design flexibility, building clustering, grouping of open space, increased density, and alternatives to public facility improvements. To be approved a PUD must comply with the provisions of Benton County Subdivision Regulations as varied, and must achieve the following purposes:

1. A more efficient use of land;
2. More efficient use of public facilities;
3. More useable open space through structure grouping and other design techniques; and,
4. Preservation of appropriate natural and/or physical features.

PLANNING BOARD SERVICE OFFICER – The Planning Board Service Officer is the primary planning staff member with authority to sign off on administrative approvals and shall serve as the enforcement officer for violations of the Planning Regulations of Benton County, AR. The Planning Board Service Officer shall be the Director of the Department of Planning and Environmental Services or their designee.

PLAT, FINAL –The final plat is the final plan subject to recording that contains all of the changes to the preliminary plat, engineering and survey detail, legal provisions, and signature spaces for endorsement that is submitted to the Planning Board for their approval of the proposed subdivision.

Key to Symbols: ◆ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ◆ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

PLAT, INFORMAL – Any division of a lot, tract, or parcel of land into three (3) or more lots or other division of land for the purpose of transferring of ownership to non-record titleholders or the development or extension of utilities, dedication of easements, or rights-of-way, where the parcels are not less than three (3) acres nor greater than four point nine-nine (4.99) acres.

PLAT, PRELIMINARY – A preliminary plat is the plan for a subdivision that contains all of the detailed design specifications and elements required for a thorough technical appraisal of the proposal and approval by the Planning Board.

POINT OF CONTACT – For applications to the Planning Board, the applicant shall designate a single point of contact who shall serve as the reference person who can speak for the project, answer technical questions, and serve as the conduit for all information concerning the application.

POTABLE WATER - Water that has been treated to drinking water standards and is safe for human consumption.

PRIVATE DRIVES AND DRIVEWAYS: A travelway installed and maintained by others and not part of the County road system. They are intended to provide access to and from a residence, lot, parcel of land, apartment complex or other private development approved by the County Planning Board.

PUBLIC FACILITIES, NECESSARY AND ADEQUATE – Facilities determined to be capable of supporting and servicing the physical area and designated intensity of the proposed development as determined by the Planning Board based on specified levels of service.

PUBLIC HEARING – A meeting announced and advertised in advance that is open to the public, with the public being given an opportunity to speak or otherwise communicate their concerns, opposition to, support of, or any other position concerning a project or issue before the Planning Board.

PUBLIC WAY – Any public highway, or a private way that is laid out under authority of a statute, or a way dedicated to public use, or a way that is under the control of the County Judge or a body having similar powers. Interstate and state highways, as well as County streets and roads, would all be included in this definition but not the associated right-of-way.

“Q” Definitions

Reserved

“R” Definitions

RECORDING FEE – A charge for recording the transfer of property or development, paid to the County.

RECREATIONAL VEHICLE – A vehicle that is:

1. Built on a single chassis;

Key to Symbols: ◆ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ◆ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

2. Four hundred square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck;
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

RELIGIOUS WORSHIP, PLACE OF – A building or portion thereof intended for the performance of religious services.

REPAIR – The reconstruction or renewal of any part of an existing building for the purpose of its maintenance.

REPLAT – The process of changing a previously approved land development, either by alteration of a lot, parcel, or tract, or the placement of another type of development on a lot or tract different from the one previously contemplated when originally approved, or by other changes made to the original plat. There are two types of replats:

1. Minor Replat: Consists of any lot split, recombination, or lot line adjustment that does not change the substantive extents or density of the approved subdivision and results in no more than one (1) additional lot that meets all of the dimensional requirements of the approved subdivision.
2. Substantive Replat: When a single owner or group of owners of an approved subdivision seeks to make a substantive modification to the extents or design of the subdivision. This could include but not necessarily be limited to:
 - a. Amending the subdivision by adding external lands not formerly a part of the subdivision.
 - b. Amending the subdivision by removing lands from the approved subdivision.
 - c. Seeking to convert common area, open space, or lands otherwise not specifically designated for development, into developable lots, or vice versa.
 - d. Modification to infrastructure requirements or design, amenities, landscaping, or other provision or stipulation of approval.

RESIDENCE – A dwelling which is either currently inhabited by one or more persons legally entitled to being there, or suitable for such habitation. It specifically does not include abandoned or other structures that are not suitable for human habitation.

RESIDENCE, PRIMARY – A residence occupied by the property owner or the largest residence on the property, whichever is applicable.

RETAINING WALL – A structure that holds back a slope and prevents erosion.

Key to Symbols: ♦ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

RETENTION BASIN – A facility that stores stormwater, but the storage of the stormwater would be on a more permanent basis than a DETENTION BASIN (see above). In fact, water often remains in a retention basin indefinitely, with the exception of the volume lost to evaporation and the volume absorbed into the soils. This differs greatly from a DETENTION BASIN, which typically drains after the peak of the storm flow has passed, sometimes while it is still raining. Additional uses for stormwater retention are to help recharge large underground water aquifers.

RIGHT-OF-WAY – A strip of land occupied or intended to be occupied by a road or street, crosswalk, sidewalk, curb, gutter, stormwater facility, utilities, and other public or quasi-public improvements associated with a road cross section.

ROAD, ARTERIAL – As defined in the official Benton County Road Plan.

ROAD, COLLECTOR – As defined in the official Benton County Road Plan.

ROAD, LOCAL – As defined in the official Benton County Road Plan.

ROAD PLAN – The official plan for roads in unincorporated areas of Benton County designating the general location, characteristics, and functions of current and future roads.

“S” Definitions

SANITARY SEWER – A sewer system designed for the collection of wastewater from the bathroom, kitchen and laundry drains, and is usually not designed to handle Stormwater.

SECTION 404 WETLANDS PERMIT – A permit required under Section 404 of the Clean Water Act for the discharge of dredged and fill material into any surface water of the United States. The US Army Corps of Engineers issues Section 404 permits.

SEPTIC SYSTEM – An onsite wastewater treatment system. It usually has a septic tank, which promotes the biological degradation of the waste, and a drain field, which is designed to let the left over liquid soak into the ground. Septic systems and permits are usually sized by the number of bedrooms in a house.

SEPTIC TANK WASTE – Any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and aerated tanks and shall also include decentralized sewer systems ☂

SERVICE OFFICER – The administrative officer properly designated to act on behalf of the Planning Board.

SETBACKS – An area beyond which the construction of all manmade structures is prohibited.

Key to Symbols: ♦ Floodplain, ☂ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

PLANNING AND DEVELOPMENT ORDINANCE OF BENTON COUNTY

SEWAGE SYSTEM, CENTRAL – A sanitary sewage system designed to serve a collective such as a neighborhood, subdivision, or other group of common users. Such as system may be developed and/or maintained by a private or public entity and may not be limited in type provided that the system meets the requirements of the Department of Health.

SEWAGE SYSTEM, INDIVIDUAL – A sanitary sewage system designed to serve a single private user in the form of a septic tank or similar technology.

SFHA – The acronym for Special Flood Hazard Area◆

SIGHT TRIANGLE – A site triangle is intended to provide increased visibility at intersections for the safety of pedestrians and motorists at corner lots. All corner lots shall provide a sight triangle consisting of an unobstructed triangular area where the front lot line and the exterior side lot line intersect. The sight triangle shall be measured from the point of intersection of the lot lines.

SITE PLAN – The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, wetlands and waterways, means on ingress and egress, circulation, utility services, structures and buildings, signs and lighting, berms, buffers and other screening devices, surrounding development, and any other information that reasonably may be required in order for an informed decision to be made by the Planning Board.

SITE PLAN, MAJOR – Shall apply to high impact developments and may require additional analysis due to the scale, scope, or anticipated impact of the project or use. Projects of regional impact are high impact projects whose influence may extend to a regional scope.

SITE PLAN, MINOR – Shall apply to low impact developments. A minor site plan is appropriate for developments or uses of a minor or incidental impact that require a lower and less formal threshold of technical review (also Informal, Sketch, or Concept Site Plan).

SITE PLAN, STANDARD – The development plan for one or more lots on which is shown the existing and proposed conditions of the lot including topography, vegetation, drainage, floodplains, wetlands, waterways, landscaping and open spaces, walkways, means of ingress and egress, site circulation, parking, utility services, buildings and structures, signs, lighting, screening devices such as berms and buffers, surrounding development, and any other information that reasonably may be required in order for an informed decision to be made by the Planning Board.

SKETCH PLAN – May be a free hand drawing, superimposed on a site map, or aerial photograph (also Informal or Concept Plan)

SLAB ANCHORS – Anchors where the hook of the anchor is wrapped around a horizontal rebar in the slab before the concrete is poured.

SLOPE – The incline angle given as a ratio of the rise to the run. (slope = rise/run)

Key to Symbols: ◆ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ◆ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

SMALL WIND TURBINE – A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of more than 10 Kilowatts (kW) but less than 100 kW and which is intended to primarily reduce on-site consumption of utility power ▲

SOUND ATTENUATION – Sound proofing a wall or subfloor, generally with fiberglass insulation.

SPECIAL EVENT FACILITY – A facility or assembly hall available for lease by private parties or special events such as weddings. This term includes wedding chapels.

SPECIAL FLOOD HAZARD AREAS – Geographical areas identified on FEMA flood insurance rate maps as being at-risk for flooding. The maps further categorize these areas into various flood risk zones A, AE, AH, and AO. See area of special flood hazard ◆

START OF CONSTRUCTION – Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STATE – The State of Arkansas.

STATE COORDINATING AGENCY – The agency that acts as a liaison between FEMA and a community for the purposes of floodplain management. The Arkansas Natural Resources Commission is the State Coordinating Agency for Arkansas ◆

STREETS – Streets mentioned in these regulations will always refer to subdivision streets as opposed to anything that might be considered a part of the Benton County Road Plan.

STORM DRAINAGE SYSTEM – All surfaces, structures and systems that contribute to or convey stormwater, including private drainage systems, the MS4, surface water, groundwater, waters of the State and waters of the United States ☂

STORMWATER – Runoff resulting from precipitation ☂

STORM SEWER – A sewer system designed to collect storm water and is separated from the waste water system.

Key to Symbols: ◆ Floodplain, ☂ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ◆ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

STORMWATER MANAGEMENT PLAN – All regulated Small MS4's, including Benton County, that are permitted under the general permit are required to develop and implement a Storm Water Management Program (SWMP) to address each of the Six Minimum Control Measures that are contained the federal regulation and Part V.B of the ADEQ general permit. The SWMP plan must include Best Management Practices (BMPs) for each of the minimum control measures along with Measurable Goals and interim milestones for each BMP.

STORMWATER PERMIT – A permit issued by EPA that authorizes the discharge of pollutants to Waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis ☂

STORMWATER POLLUTION PREVENTION PLAN (SWP3) – A document that describes the Best Management Practices (BMP's) to be implemented at a site, to prevent or reduce the discharge of pollutants ☂

STORY – The part of a building between any floors or between the floor and roof.

STRUCTURE – For the purposes of floodplain management, structure refers to any building with two or more rigid walls and a fully secured roof on a permanent site or to any gas or liquid storage tank that is principally above ground ♦

STRUCTURE – Is anything constructed or erected, the use of which requires permanent or temporary location on the ground, or attached to something having a permanent or temporary location on the ground, including but not limited to any building, dwelling, manufactured building, manufactured home, mobile home, boathouse, boat shelter, advertising sign, deck, patios, fences, retaining walls, or other improvements or any part of such structure. A structure includes any permanent or temporary appurtenance attached thereto, including but not limited to awnings and advertising signs. For the purpose of this ordinance, structure shall exclude portable animal shelters, portable storage buildings, cattle guard, traffic control signs, and usual farm fences built of wire and posts.

SUBDIVISION – A division of a lot, tract, or parcel of land into two (2) or more lots or other division of land for the purpose of transferring ownership to a non-record titleholder or the development or extension of utilities, dedication of easements, or rights-of-way, whether immediate or future, including all changes in street or lot lines;

SUBDIVISION DEVELOPMENT – Includes activities associated with the platting or division of any parcel of land into two or more lots or tracts and includes all construction activity taking place thereon.

SUBSTANTIAL DAMAGE – Damage of any origin where the cost to restore a structure to its original undamaged state would equal or exceed 50% of the market value of the structure before any damage occurred. In determining whether substantial damage has occurred, estimators must use standard contractor and materials costs. There are no exceptions for homeowners who make their own repairs or for discounted or free raw materials.

Key to Symbols: ♦ Floodplain, ☂ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

SUBSTANTIAL IMPROVEMENT – Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before start of construction of the improvement. This includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or
2. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

SUPPORT STRUCTURE – Any existing structure onto which one or more antenna arrays are placed; they need not be towers ■

SURFACE WATER – Water bodies and any water temporarily residing on the surface of the ground, including oceans, lakes, reservoirs, rivers, ponds, streams, puddles, channelized flow and runoff ☔

SURVEY – Field work that creates (or establishes), marks, and defines the boundaries of tract of land. (Manual of Surveying Instructions 1973, US Department of the Interior, should be consulted).

“T” Definitions

TENT – Any structure, enclosure or shelter that is constructed of canvas or pliable material supported in any manner except by air or the contents it protects.

TELECOMMUNICATIONS FACILITY – Any of the following: (1) A tower or a parcel of land containing a tower, sending and receiving antennas attached to the tower, and a prefabricated or modular structure or cabinets containing electronic equipment designed to serve the site; (2) A Federal Communications Commission (FCC)-licensed facility, designed and used for the purpose of transmitting, receiving, and relaying voice and data signals from various wireless communication devices and equipment. For purposes of this ordinance, amateur radio transmission facilities and facilities used exclusively for receive-only antennas are not classified as telecommunications towers and facilities ■

TOPOGRAPHICAL SURVEY – A review process and record of information regarding the surface conditions of a proposed [development] site. The resulting drawing normally uses contour lines to convey the surface height or depth relative to a given level.

TOPOGRAPHY – The relief features or surface configurations of an area; e.g., hills, valleys, slopes, lakes, rivers, etc. usually measured in feet and mapped as contours.

TOTAL EXTENDED HEIGHT – The height above grade to a tower blade tip at its highest point of travel ▲

Key to Symbols: ◆ Floodplain, ☔ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ◆ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

TOWER, ARCHITECTURALLY DESIGNED – A telecommunications tower which is designed and constructed in such a manner that the tower appears to be an integral part or element of another permitted structure on the site, such as a church tower, bell tower, or flag pole (also known as STEALTH TOWER) ■

TOWER, TELECOMMUNICATION – Any structure that is designed and constructed primarily for the purpose of supporting one or more antenna arrays. This shall include but not necessarily be limited to self-supporting lattice towers, monopole towers, towers supported by guy wires, and towers associated with a building or other permanent structure. The fact that one or more antenna arrays are placed on any structure that was not primarily intended for such purpose does not convert the structure into a tower. A telecommunications tower shall be considered part of a telecommunications facility (see also TELECOMMUNICATIONS FACILITY) ■

TOWER HEIGHT – The height above grade of the fixed portion of a tower, and any fixed appurtenance attached to the tower ▲■

TOWER, LATTICE – A guyed or self-supporting three (3) or four (4) sided, open, steel frame structure used to support telecommunications equipment

TOWER, MONOPOLE – A telecommunication tower consisting of a single pole, constructed without guy wires and ground anchors ■

TOWER, WIND ENERGY – The monopole, freestanding, or guyed structure that supports a wind generator. Towers are made from tubular steel, concrete, or steel lattice. The vertical component of a wind energy conversion system that elevates and supports the wind turbine generator and attached blades above the ground up out of the turbulent wind ▲

TOWNHOUSE – A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from the foundation to roof and with open space on at least two sides.

TRACT – Real estate within Benton County lying outside municipal boundaries, which is not a part of any subdivision, and is described by a metes and bounds description.

TRACT SPLIT – A division of a tract or parcel of land into two (2) or more lots or parcels or other divisions for the purpose of transferring ownership to a non-record titleholder.

TRAILERS – Travel trailers, motor homes, pick-up campers, fifth wheel campers, camping trailers with folding or collapsing features; such trailers may be self-contained (operate for periods of time independently of sewer, water, gas and electrical connections and may or may not contain toilet, lavatory or shower). This regulation's coverage of trailers which might occupy such parks shall be limited to compliance with siting and utilities requirements of this regulation as well as requirements and regulations referenced in §7.1(C)2 of these regulations.

TURBINE – The parts of a wind system including the blades and nacelle ▲

Key to Symbols: ♦ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

“U” Definitions

USE, TEMPORARY – Uses or activities that are carried out primarily out-of-doors for a limited and fixed period of time including flea markets, farmers markets, fireworks displays, large scale rallies, seasonal sales, swap meets and other outdoor sales, racing meets, circuses, certain agritourism activities, carnivals, concerts, parades, spiritual revivals, and outdoor gatherings such as Burning Man or the like (also Special Event, Special Activity).

UTILITIES – Includes water, sewage, electrical, and natural gas.

UTILITY AGENCY – Private utility companies, engaged in the construction or maintenance of utility distribution lines and services, including water, sanitary sewer, storm sewer, electric, gas, telephone, television and communication services.

UTILITY EASEMENT – The area of the earth that has electric, gas, or telephone lines. The property owner may own these areas, but the utility company has the legal right to enter the areas as necessary to repair or service the lines.

“V” Definitions

VARIANCE – (1) Variances are relief to a dimensional provision of these regulations by the Benton County Planning Board. The criteria to grant variances shall be, without exception, and singularly because strict compliance with any provision of this ordinance would cause exceptional or undue hardship to the applicant. Additionally, extra expense, economic hardship, or additional outlay of capital funds or money shall never constitute grounds for exceptional or undue hardship; (2) A grant of relief to a person from the requirements of Chapter XIV when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article. (For full requirements, see section 60.6 of the National Flood Insurance Program regulations.)

VIOLATION – The failure of a structure or other development to be fully compliant with Chapter XIV. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance is presumed to be in violation until such time as that documentation is provided.

“W” Definitions

WAIVER – A specific request for relief from a non-dimensional provision of this Ordinance, specifically a waiver would be the elimination of a provision.

WATER SURFACE ELEVATION – The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas ♦

Key to Symbols: ♦ Floodplain, ☁ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ♦ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.

WATER SYSTEM, CENTRAL – A public or private water company provides piped water to customers in a subdivision, neighborhood, or other common group as opposed to self-sufficient water systems consisting of wells or catchments such as cisterns.

WATERS OF THE STATE (or water) – Any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the State or inside the jurisdiction of the State ☂

WETLAND – Any area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas ☂

WIND ENERGY CONVERSION SYSTEM (WECS) – Any machine designed for the purpose of converting wind energy into electrical energy. The WECS includes all parts of the system. A small wind energy conversion system shall be referred to as SWECS ▲

“X” Definitions

X ZONES – A special group of insurance risk zones. One type, shown as non-shaded areas on FEMA issued flood maps, indicates a zone where flooding is not expected to occur. The second type, shown as shaded areas of FEMA flood maps, indicates a flood hazard area that is expected to be affected by the 500-year flood, but not by the 100-year base flood.” ◆

“Y” Definitions

Reserved

“Z” Definitions

Reserved

§3.5 – RESERVED

Key to Symbols: ◆ Floodplain, ☂ Stormwater, ■ Telecommunications, ▲ Wind Energy

Note that symbols are associated with specific definitions that apply only to that category. For example, definitions that include the Floodplain Symbol ◆ are only applicable to floodplain provisions and not more broadly to other provisions of this Ordinance.
